



What a Supervisor Should Do if an Employee Appears Ill During a Declared Pandemic Influenza or Has Been Exposed to Pandemic Influenza

This guidance was prepared to assist Department of Commerce (Department) managers and supervisors in determining the appropriate course of action when confronted in the workplace with an employee who appears ill during a declared pandemic influenza outbreak or an employee who has been exposed to pandemic influenza. It is based on guidance issued by the U.S. Office of Personnel Management (OPM) (see www.opm.gov/pandemic/agency/decisionchart.asp). Employees who appear to be ill include those workers with pandemic flu-like symptoms (based on symptoms identified by the Centers for Disease Control and Prevention (CDC), which will be posted at www.pandemicflu.gov once the symptoms are known. Employees who have been exposed to pandemic influenza include those employees who have a known, recent, and direct exposure to pandemic influenza (also based on guidance from CDC and the Occupational Safety and Health Administration (OSHA). The chart on the following page is intended to assist Commerce supervisors and managers in assessing the capacity of their workforce to carry out the work for which the supervisor or manager will remain accountable during a pandemic influenza.

General

Where occupational health services or authorized medical officials are available, supervisors should recommend that employees who appear to be ill or who have been exposed to pandemic influenza seek medical assistance. If the employee refuses to seek assistance, refuses to follow a medical recommendation to leave the workplace, or medical services are not available, supervisors should follow the chart on the following page. The specific facts and circumstances of each case must be reviewed to determine the appropriate action to be taken. Supervisors and managers should be familiar with the Department's specific rules and guidance as well as all applicable laws and leave policies. (See www.opm.gov/pandemic/agency1d-leave.pdf.) They should seek assistance from their human resources (HR) office early, and certainly before taking any adverse action, to ensure they have considered all appropriate options and have objective evidence to support the action. Supervisors should not take action based solely on their own subjective assessment of an employee's medical condition. The nature and extent of the objective evidence required will be determined on a case-by-case basis by the agency. HR staffs are equipped to assist supervisors and managers with these determinations.

Return to Work Following Pandemic Influenza or Exposure to Pandemic Influenza

Supervisors should consult with their HR office and follow any public health recommendations from CDC or medical advice offered by the employee's physician when determining whether and when an employee should be allowed to return to work following an absence due to pandemic influenza.

Planning

Managers and supervisors should familiarize themselves with this document, as well as OPM's Agency Guidance, including the Questions and Answers section, on leave, pay, employee and labor relations, hiring, alternative work arrangements, and other critical human capital issues in relation to a pandemic influenza to ensure they can continue to carry out the work of their office and protect the workforce should a pandemic influenza outbreak occur. (See www.opm.gov/pandemic/index.asp.) As part of any planning effort, supervisors and managers should discuss with employees the common-sense steps employees can take to protect themselves and help prevent the spread of influenza in the workplace. These measures include, but are not limited to, frequent hand washing and other good health habits to stop the spread of germs, staying home when one feels ill, and generally decreasing contact with others, an approach known as social distancing. These and other simple steps employees can take are found on CDC's Website at www.cdc.gov/flu and www.cdc.gov/germstopper/work.htm.

Managers and supervisors should also keep themselves informed of the latest public health information released by CDC. Based on that guidance, managers and supervisors should follow the chart on the following page to ensure that an employee who appears ill during a declared influenza pandemic or has been exposed to pandemic influenza leaves the workplace as quickly as possible so as to protect the employee and limit exposure to other workers.

Managers and supervisors should plan in advance for the possibility that employees may need to work at home during pandemic influenza. In advance of a pandemic, managers and supervisors should discuss with employees the types of assignments they may be given if they are evacuated from the workplace (see 5 CFR 550.409) or choose to telework to promote social distancing. Assignments under the evacuation pay authority may include any work considered necessary or required to be performed during the period of the evacuation, without regard to an employee's grade level or title, provided the employee has the necessary knowledge and skills to perform the assigned work. For example, such work could include various research projects or on-line training and other employee development activities. If an employee is not physically capable of working, he or she should not be given work assignments to complete at home. If the employee is not able to work, the supervisor should pursue alternative ways of accomplishing the employee's work.

What a Supervisor Should Do if an Employee Appears Ill During a Declared Pandemic Influenza or Has Been Exposed to Pandemic Influenza

Situation	If the employee...	Does employee take leave?	Take the following action	And
1	Appears ill with pandemic flu-like symptoms (see note 1), the supervisor should express concern that employee appears to be ill with pandemic flu-like symptoms and encourage employee to take leave and seek medical care.	Yes	Grant leave and send employee home on leave (see note 2).	
2		If no, consult HR to determine if there is objective evidence of medical incapacity to perform duties of his or her position. Consider use of on-site employee health services if available to assist in making this determination.	If there is objective evidence and employee still refuses to request leave, advise that you have determined the employee is incapable of working and order employee to leave and place on excused absence. Consult with HR on next steps, including potential adverse action (e.g., enforced leave) (see note 4).	
3			If there is no objective evidence, follow situations 5-8 (see note 3).	
4	Has a known, recent, and direct exposure to others with pandemic influenza, but is still capable of working (see notes 1 and 5), the supervisor should express concern that employee could be ill or contagious and suggest that employee take leave.	Yes	Grant leave and send employee home on leave (see note 2).	
5		If no and employee insists he or she is able to work, determine if employee has a telework agreement in place that includes directed unscheduled telework.	If employee has a telework agreement that includes directed unscheduled telework, send employee home to telework (see note 2).	
6			If employee does not have a telework agreement, or has a telework agreement that does not include directed unscheduled telework, determine if employee can telework on a periodic basis.	If employee can perform telework on a periodic basis and agrees to do so, send employee home to telework.
7				If employee can perform telework on a periodic basis but does not agree to do so, order employee to evacuate his or her worksite and perform work from home (or at an alternative location) and advise HR. See 5 CFR 550.409. (Also see notes 2 and 4.)
8				If employee cannot perform telework on a periodic basis, determine what work the employee may perform and order employee to evacuate his or her worksite and perform work from home (or at an alternative location) and advise HR. See 5 CFR 550.409. (Also see notes 2 and 4.)

- Note: (1) Follow guidance received from CDC on pandemic influenza symptoms and exposure criteria (once known).
 (2) Consult with HR office and follow medical advice from CDC or an employee's physician when allowing an employee to return to work following pandemic influenza or exposure to pandemic influenza.
 (3) Situations 5-8 (columns 3-5) are applicable when an employee is able to work.
 (4) If an employee has been ordered to leave the workplace, he or she has no "right" to remain on the agency's premises. If an employee has been ordered to leave and refuses to do so, supervisors should consult with the HR office and contact the building security staff to have the employee escorted from the premises.
 (5) Follow OSHA workplace guidance on assessing the likelihood that an employee has been exposed to a pandemic influenza.